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15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA
17 SAN FRANCISCO DIVISION

18 ORACLE AMERICA, INC.,
19 Plaintiff,
20 v.
21 GOOGLE INC.,
22 Defendant.

Case No. 3:10-cv-03561 WHA

**DECLARATION OF DAVID ZIMMER IN
SUPPORT OF ORACLE AMERICA,
INC.'S ADMINISTRATIVE MOTION TO
FILE UNDER SEAL PORTIONS OF
ORACLE'S MOTION TO EXCLUDE
PORTIONS OF THE RULE 706 EXPERT
REPORT OF DR. JAMES KEARL [DKT
NO. 849]**

Dept.: Courtroom 8, 19th Floor
Judge: Hon. William Alsup

1 I, DAVID ZIMMER, declare as follows:

2 1. I am an associate with the law firm of Keker & Van Nest LLP, counsel to Google
3 Inc. (“Google”) in the present case. I submit this declaration in support of Oracle America, Inc.’s
4 Administrative Motion to File Under Seal Portions of Oracle’s Motion to Exclude Portions of the
5 Rule 706 Expert Report of Dr. James R. Kearl [Dkt. No. 849]. I have knowledge of the facts set
6 forth herein, and if called to testify as a witness thereto could do so competently under oath.

7 2. Certain of the redacted portions of Oracle’s Motion to Exclude Portions of the
8 Rule 706 Expert Report of Dr. James R. Kearl expressly disclose or would allow others to easily
9 deduce Google’s sensitive, non-public financial data, such as costs, revenues, and profits, as well
10 as projected costs, revenues, and profits, associated with Android. It also contains sensitive, non-
11 public information about Google’s financial management practices and methodologies. This
12 includes the redacted material at: 4:22-5:7; 5:22-25; 6:7-9; 6:13-21; 6:23-26. Public release of
13 this information would cause great and undue harm to Google. These selections should therefore
14 be filed under seal.

15 3. Exhibit B to the Declaration of Meredith Dearborn In Support of Oracle’s Motion
16 to Exclude Portions of the Rule 706 Expert Report of Dr. James Kearl (“Dearborn Decl.”)
17 contains selections from the deposition of Aditya Agarwal, a senior financial analyst at Google.
18 Certain parts of Exhibit B contain sensitive, non-public information about Google’s financial
19 management practices and methodologies. This includes the material at 20:11-15; 38:9-39:5;
20 39:19-21; 51:11-52:24; 75:10-76:17; 112:5-21. Public release of this information would cause
21 great and undue harm to Google. These selections should therefore be filed under seal.

22 4. Exhibit C to the Dearborn Declaration contains a short selection from the Expert
23 Report of Dr. Alan Cox. This selection includes Google’s sensitive, non-public financial data,
24 such as costs, revenues, and profits associated with Android. Public release of this information
25 would cause great and undue harm to Google. This exhibit should therefore be filed under seal in
26 its entirety.

27 5. Exhibit D to the Dearborn Declaration contains selections from the deposition of
28 Dr. Alan Cox. This selection includes sensitive, non-public information about Google’s financial

management practices and methodologies. This includes the material at pages and lines 71:3 to 75:18. Public release of this information would cause great and undue harm to Google. These portions of this exhibit should therefore be filed under seal.

6. Exhibit E to the Dearborn Declaration contains the Expert Report of Dr. James R. Kearl. Certain parts of Exhibit E expressly disclose or would allow others to easily deduce Google's sensitive, non-public financial data, such as costs, revenues, and profits, as well as projected costs, revenues, and profits, associated with Android. This includes the figures in ¶¶ 20, 21, 25 (copyright royalty figure), 28, 48, 49, 50, 51 (entire portfolio and copyright royalty figure), 69 & n.28, 71, 80, 81, 82, 85, 86 & nn. 44 and 45, 92 & n.51, 93 & n.53, 94, 95, 104, 106, 111 (entire portfolio and copyright royalty figure), 112 (copyright figure), 115, 116, 119, 121, 123, 140 n.87, 146, 148 & n.93, 153, 155, 158. It also includes Tables 1, 2, 3, 4, 5, 6, 7, 8, and 9. These portions of Exhibit E should therefore be filed under seal.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at San Francisco, California on April 9, 2012.

By: /s/ David Zimmer
DAVID ZIMMER